

June 3, 2013

Case 5:11-cr-00602-GTS

US vs Jenkins

Joseph Jenkins

7445 County House Rd

Auburn, NY 13021

US District Court

US Attorney

Canadian Attorneys:

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100 South Clinton St

Steven J Edgley ESQ

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Timothy Buckley ESQ

Re: Pre trial Issues, Court Dates (more time needed), Reconsideration of previous motions to date.

US attorneys, Judge Suddaby:

Thank you, for the disclosure on 5-29-13. As I suspected, 85% was being withheld by my former attorney. Some of it is very helpful, I appreciate the honesty. The hearing and disclosure also confirm several issues, and I would like the court to carefully reconsider my May 13, 2013 submission and the decision and order (Doc no 68) resulting from it.

Prosecutors submission regarding Discovery Status Update (Doc no. 69) needs to be addressed as well. Pages 2, 5 items 4, 5. Items and issues once again have been misread and misconstrued as to seemingly waste time and avoid issues. This happens a lot in the court system, by all parties it seems, in relation to all issues that benefit defense and move in the right direction.

The previous items misstate my requests. On My April 28, 2013 requests, I clearly stated "immediately detained upon returning to the US" from "attending court dates in Brockville, Canada." Went on to quote DHS paperwork and how it did not mention "their physical interference in the case... result of Canadian investigations, both times." Dates were 5-26-09 and 9-13-10.

This was interpreted as "incidents," "physical interference" by Canadian Officials. Even so, you did get the requests right, and it proves it. It also proves DHS Willard lied on an affidavit. (Doc no 27-8)

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Willards affidavit said, HSI was notified on May 27, 2009 of my arrest in Brockville, CANADA, and basically, "had no further involvement in the Jenkins matter until October 21, 2010." This is False. TECS report 5-26-09, (Bates 94) says they were notified May 25, 2009.

It is confirmed I was stopped by DHS/KBP/ICE or whatever they call themselves, on 5-26-09 and 9-13-10 just as I stated previously by (Bates 204-206).

The only part not true, is that I was read Miranda warnings when they attempted to interview me, I was not. Thus confirms the "physical US interference" on "both Canadian Court dates I attended." Willard lied.

As a result I would like the US attorney and the Court both to reconsider their positions on this case, along with a few following things/issues from the conference and still pending to date.

① Joint investigations, I would like the US attorney to reconsider ^{involvement} ~~involvement~~ of the aforementioned incidents and the court also to rule this a joint investigations and apply my rights to Canadian Proceedings and retro active to Motions to date.

② Federal Rules of Evidence, "All evidence is relevant." I believe it was inappropriate for the court to put the burden of proof on me to prove "items were in fact lost," and "exculpatory value of the evidence." Unless prosecutors and police can account for it, all items, (lost) on both sides of the border and in operational evidence, such as computer. It ~~be~~ ruled tampered (All) with and excluded /suppressed from proceedings, no further discussion.

③ Improper forfeiture /Seizure of evidence, Prosecutors commented at the hearing Canadians have had no involvement in the matter. This is obvious. I cite (Bates 170, 172) "Order of Detention," three times, Wohler was told to hold the evidence. This has not resulted in Double Jeopardy - It has resulted in two trials at the same time, with the same evidentiary and disclosure problems that fouled the first trial. This is legally unconscionable.

Cittings, P.5

③

Cittings, p.5

①

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Citations, P.5

①②

The "seizure" By DHS which occurred across the border and involved a US citizen without a warrant, was incomplete and unconstitutional. Police officers do not (Bates 20) have authority to "seize" without a warrant. That is why it is a matter for executive branch. To prevent these occurrences. I ask the court to seriously reconsider this transaction. This unauthorized transaction violated my fourth, fifth and six amendment rights in both countries, because they did not obtain properly conferred judicial authority, the day after this occurred, or all evidence.

In regards to "failing to establish that the Canadian Proceeding is still pending," a call for court transcripts will confirm this. The Canadian attorney is working on an affidavit, to confirm. This is not a "sequential prosecution" as the court referenced, it is in violation of, and bypassed treaties.

①②③④

I propose the prosecution provide paperwork that this was properly conferred, (and) that the court simply call the court reporter in Canada, to confirm it was not. (I will have my parents send the court the phone number) Separately.

④ Canadian Forensic Report, the court on (Page 12, Doc no 68) referenced a (2) fully complete forensic examination on October 21, 2010. The court is mistaken. The prosecution provided the report, it is dated January 4, 2010 it was the same report I had from March 2010, as I thought. It is incomplete.

③

⑤ I sought indictment dismissal on the grounds that it was based on illegally obtained, incomplete and falsified evidence that was tampered with. The Canadians did complete the laptops and stated no visible illegal material on either which made any further want/need to search further by the Canadians, unjustified, without a warrant. US indictment-based on falsified evidence, that, I knowingly transported it across the border on the Toshiba Computer is not sustainable.

As a result of the happenings and discoveries to date I am going to have this and future paperwork forwarded to my attorneys

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in the Canadian matter. Since it is adjourned, and re-visit the issue on grounds for dismissal as well. I have seen evidence here never seen in Canada, previously. This whole matter seems to be based on misconduct by Wohlerst and DITS, OPP as well. This was outlined in May 13, 2013 submissions. It has been confirmed.

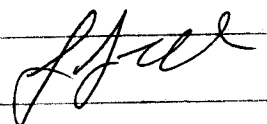
I have seriously doubted my abilities to get a ~~fair~~ fair trial in front of this US court. There have been blatant violations of fourth, fifth and six amendment rights. The court seems determined to force the matter through, regardless, of misconduct by government officials in the US. I expect my rights to be observed as a presumed innocent, american citizen, It has ^{not} been done to date.

I ask the pretrial submissions date be postponed for the time being, evidence (physical) is needed and so are transcripts. I ask the government to assume responsibility and acquire them. Examinations are needed for pre trial motions as well of physical evidence, most of which is missing and non operational. I appreciate the offer of a speedy trial, but at this point it does not matter, I prefer a fair trial if the court really insists on pursuing the issue. I feel this is not a US matter and is ill conceived.

I also ask my submissions and rights be respected by the government and the court, not avoided, misconstrued and thrown back at me.

I have recently learned two family members of my remaining six are very, very ill. I have not seen them in years because of this. My time is valuable, lots of it has been wasted here. I ask the court once again to do the right thing and end this proceeding.

Sincerely,



Joseph Jenkins

Original to the US district court

Copies to the US attorney, J Jenkins, B+G Jenkins;
Canadian Attorneys - Steve Edgley ESQ, Timothy Buckley ESQ

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Citations, no cases similar to this particular instance found.

① Johnson vs United States 333 US 10, 13-14 (1948) (Footnotes omitted)

"The point of the fourth amendment, which is often not grasped by zealous officers... as a rule, to be decided by a judicial officer, not by a policeman or law enforcement agent."

"The primary purpose of the warrant is to assure its neutrality."

② US vs Calandra, 414 US 338, 354 (1974); US vs Leon, 468 US 897, 906 (1984)

Fourth amendment. "It prohibits unreasonable searches and seizures"... and a violation of the amendment is "fully accomplished" at the time of an unreasonable government intrusion

③ Frisbie vs Collins, 342 US 519

"... that due process of law is satisfied when one present in court is convicted of after having been fairly apprized of the charges against him..."

④ Verdugo 939 F.2d at 1350

"The requirements extradition treaties impose constitute a means of safeguarding the sovereignty of the signatory nations, as well as ensuring the fair treatment of the individuals."

⑤ Thomas Paine - an "avidity to punish is always dangerous to liberty" because it leads a nation "to stretch, to misinterpret, and to misapply even the best ^{of} laws."

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